



TAMIL NADU

GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 84] CHENNAI, TUESDAY, FEBRUARY 26, 2019
Maasi 14, Vilambi, Thiruvalluvar Aandu-2050

Part V—Section 4

Notifications by the Election Commission of India

NOTIFICATIONS BY THE ELECTION COMMISSION OF INDIA

JUDGEMENT OF THE HIGH COURT OF MADRAS
IN ELECTION PETITION No.23 OF 2016.

No. SRO G-6/2018.

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 6th February, 2019 [17 Magha, 1940 (Saka)] is published:—

No. 82/TN-LA(EP 23 of 2016)/2019:—In pursuance of Section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order of the High Court of Madras, dated 26-09-2018 in Election Petition No.23 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 26TH DAY OF SEPTEMBER 2018

THE HON'BLE MR. JUSTICE K. RAVICHANDRABAABU

Election Petition No. 23 of 2016

and

O.A. NO 1174 of 2017

and

O.A. No. 926 of 2016.

ELP No. 23 of 2016

R. Venkatesan,
S/o. Rengasamy,
Nethaji Nagar,
Vembakkam,
Chengalpattu,
Kancheepuram District—*Petitioner.*

Versus

1. The Returning Officer *cum*
Revenue Divisional Officer,
No. 32, Chengalpattu Assembly Constituency,
Chengalpattu.
2. S. Ajay,
No. 16, Braminar Street,
65, Palur Village & Post,
Chengalpattu Taluk.
3. R. Kamalakannan,
No. 15, 36th Street,
AVM Avenue,
Virugambakkam, Chennai.
4. D. Murugesan,
6, NVN Street,
Anakaputhur,
Chennai.

5. M. Varalakshmi,
4/8, Varalakshmi Koil Street,
Aappur, Chengalpattu Taluk.
6. K. Arumugam,
36/36, Maraimalai Panchayat,
Sriperumputhur Road,
Thirukatchur Village & Post,
Chengalpattu Taluk.
7. K. Sancheevinathan,
No. 30, First Railway Gate Street,
Kilampakkam, Urapakkam,
Kanchipuram District.
8. G. Sathishkumar,
No. 159A, Railway Colony,
Chengalpattu.
9. T. Selvaraj,
No. 215, 3rd Street,
M.G.R. Nagar,
Thenpathi Village,
Aathur Post,
Chengalpattu Taluk.
10. S. Muthamil Selvan,
102, SRM Nagar,
Kattankolathur Post,
Kancheepuram District.
11. S. Kumaran,
8/10, Karpoorchettikulam,
Chengalpattu,
Kancheepuram District.
12. L. Durairaj,
162, TNHB, Koodalur,
Singaperumal Koil Via,
Chengalpattu Taluk.
13. M. Raffee,
5/215, 6th Main Road,
Otteri Extension,
Vandaloor, Chennai.

14. K. Varalakshmi,
3/76, Thiruvalluvar Nagar,
Mannivakkam,
Chengalpattu Taluk.
15. P. Veeramani,
Anbagam, Thayar Salai,
Panangattupakkam,
Kolathur Post,
Vandalur *via*, Chennai.
16. A. Venkatesan,
187, Mettu Street,
Illalur, Thiruporur Taluk,
17. K. Jothi,
4-44, M.R. Radha Road,
Puthuppakkam
Thiruporur Taluk.
18. The Chief Election Commissioner,
Secretariat,
Fort St.George,
Chennai-9.—*Respondents*.

(Respondents 1 & 18 herein are struck off from the array of respondents in ELP.No.23 of 2016 as per common order of this Hon'ble Court dated 11.09.2017 made in OA.Nos.369 & 370 of 2017 in ELP.No.23 of 2016)

ELP.No.23 of 2016

Election Petition praying that this Hon'ble Court be pleased to (1) Declare that the election held on 16-05-2016 in No.32, Chengalpattu Constituency as null and void (2) Direct the 18th respondent to conduct a fresh election by fixing a date by providing sufficient opportunity along with necessary documents in time.

OA.No.926 of 2016

R. Venkatesan,
Son of Rengasamy,
Nethaji Nagear, Vembakkam,
Chengalpattu,
Kachipuram District.—*Applicant*.

Versus

1. The Returning Officer *cum*
Revenue Divisional Officer,
No. 32, Chengalpattu Assembly Constituency,
Chengalpattu.

2. S. Ajay,
No. 16, Braminar Street,
65, Palur Village & Post,
Chengalpattu Taluk
3. R. Kamalakannan,
No. 15, 36th Street,
AVM Avenue,
Virugambakkam,
Chennai.
4. D. Murugesan,
NVN Street,
Anakaputhur,
Chennai.
5. M. Varalakshmi,
No. 4/8, Varalakshmi Koil Street,
Aappur,
Chengalapattu Taluk.
6. K. Arumugam,
No. 36/36, Maraimalai Panchayat,
Sriperumputhur Road,
Thirukatchur Village & Post,
Chengalpattu Taluk.
7. K. Sancheevinathan,
No. 30, First Railway Gate Street,
Kilampakkam,
Urappakkam,
Kanchipuram District.
8. G. Sathishkumar,
No. 159A, Railway Colony,
Chengalpattu.
9. T. Selvaraj,
No. 215, 3rd Street, M.G.R. Nagar,
Thenpathi Village,
Aauthur Post, Chengalpattu Taluk.
10. S. Muthamil Selvan,
102, SRM Nagar,
Kattankolathur Post,
Kancheepuram District.
11. S. Kumaran,
8/10, Karpoorchettikulam,
Chengalpattu,
Kancheepuram District.

12. L. Durairaj,
162, TNHB Koodalur,
Singaperumal Koil Via,
Chengalpattu Taluk.
13. M. Raffee,
5/215, 6th Main Road,
Otteri Extention,
Vadaloor, Chennai.
14. K. Varalakshmi,
3/76, Thiruvalluvar Nagar,
Mannivakkam, Chengalpattu Taluk.
15. P. Veeramani,
Anbagam, Thayar Salai,
Panangattupakkam,
Kolathur Post,
Vandalur Via, Chennai.
16. A. Venkatesan,
187, Mettu Street,
Illalur, Thiruporur Taluk.
17. K. Jothi,
4-44, M.,R. Radha Road,
Puthuppakkam,
Thiruporur Taluk.
18. The Chief Election Commissioner,
Secretariat,
Fort St. George,
Chennai-9.—*Respondents*.

O.A.No. 926 of 2016

The Original Application praying that this Hon'ble Court be pleased to permit the petitioner to amend the second line of para 18 of the Election Petition No.23 of 2016 as "264 votes" instead of "467 votes".

O.A.No. 1174 of 2017

M. Varalakshmi,
4/8, Varalakshmi Koil Street,
Aappur, Chengalpattu Taluk.
Kanchipuram District.—*Applicant/5th Respondent*.

Versus

1. R. Venkatesan,
Son of Rengasamy,
Nethaji Nagar, Vembakkam,
Chengalpattu,
Kanchipuram District.—*1st Respondent/Petitioner*.

2. The Returning Officer *cum*
Revenue Divisional Officer,
No. 32, Chengalpattu Assembly Constituency,
Chengalpattu.
3. Ajay,
No. 16, Braminar Street,
65, Palur Village & Post,
Chengalpattu Taluk.
4. R. Kamalakannan,
No. 15, 36th Street,
AVM Avenue, Virugambakkam,
Chennai.
5. D. Murugesan,
6, NVN Street,
Anakaputhur,
Chennai—*Respondents 2 to 5/Respondents 1 to 4.*
6. K. Arumugam,
36/36, Maraimalai Panchayat,
Sriperumputhur Road,
Thirukatchur Village & Post,
Chengalpattu Taluk.
7. K. Sancheevinathan,
No. 30, First Railway Gate Street,
Kilampakkam, Urapakkam,
Kanchipuram District.
8. G. Sathishkumar,
No. 159A, Railway Colony,
Chengalpattu.
9. T. Selvaraj,
No. 215, 3rd Street, M.G.R. Nagar,
Thenpathi Village,
Aathur Post,
Chengalpattu Taluk.
10. S. Muthamil Selvan,
102, SRM Nagar,
Kattankolathur Post,
Kancheepuram District.

11. S. Kumaran,
8/10, Karpoorchettikulam,
Chengalpattu,
Kancheepuram District.
12. L. Durairaj,
162, TNHB, Koodalur,
Singaperumal Koil Via,
Chengalpattu Taluk.
13. M. Raffee,
5/215, 6th Main Road,
Otteri Extension,
Vandaloor, Chennai.
14. K. Varalakshmi,
3/76, Thiruvalluvar Nagar,
Mannivakkam,
Chengalpattu Taluk.
15. P. Veeramani,
Anbagam, Thayar Salai,
Panangattupakkam,
Kolathur Post,
Vandalur via, Chennai.
16. A. Venkatesan,
187, Mettu Street,
Illalur, Thiruporur Taluk.
17. K. Jothi,
4-44, M.R. Radha Road,
Puthuppakkam
Thiruporur Taluk,
Kanchipuram District.
18. The Chief Election Commissioner,
Secretariat,
Fort St.George,
Chennai-9.—*Respondents.*

(Respondents 2 & 18 Struck off by the order of this Hon'ble Court dated 11-09-2017 made in OA.Nos.369 & 370 of 2017 in ELP. No. 23 of 2016)

O.A. No. 1174 of 2017

This Original Application praying that this Hon'ble Court be pleased to reject the Election Petition No. 23/2016.

The above Original Application No. 1174 of 2017 in ELP. No. 23/2016 having been heard on 11-09-2018 before this Court in the presence of Mr. R. Neelakandan, advocate for the Applicant/5th Respondent and Mr. S. Anbazhagan, Advocate for the 1st Respondent/Election Petitioner and upon reading the Judges Summon and Affidavit of M. Varalakshmi, filed in OA.No. 1174 of 2017 and the Counter affidavit of R. Venkatesan, filed in OA.No. 1174 of 2017 and upon reading the Election Petition filed herein and this court having stood over for consideration till this date and coming on this day before this court for orders in the presence of the above said advocates.

The Court made the following order:-

The 5th respondent in the Election Petition/Returned candidate is the applicant herein. The above application is filed under Order 7 Rule 11 C.P.C. to reject the Election Petition.

2. The case of the applicant is as follows:

(i) In the General Election to Tamilnadu Legislative Assembly held on 16-05-2016, she contested as a candidate of Dravida Munnetra Kazhagam party in No. 32, Chengalpattu Constituency and returned successfully. The Election Petition is not at all maintainable since the prayer in the Election Petition is not available to be prayed by the election petitioner as per the provisions of the Representation of the People Act. The election petitioner only seeks to declare the election as null and void and to conduct fresh election. Such prayer is not in consonance with the sections under which the above election petition is filed. Nowhere in the election petition, the election petitioner has pleaded that the election of the returned candidate has been materially affected. Such mandatory requirement is totally absent and thus, the election petition is liable to be rejected. The election petitioner alleged violation of rules without even mentioning of which rules. Nothing is stated that such alleged violation materially affected the election of the returned candidate. The election petitioner vaguely pleaded that all the rules and regulations were violated. No pleading was made to say that such alleged violation materially affected the returned candidate. The declaration prayer is not in consonance with the provisions of 100(1)(d)(iv) of the Representation of the People Act, 1951. The election petitioner has not verified the election petition in compliance of section 83(1) (c) of the said Act. many of the pages of the document annexed to the election petition do not bear the petitioner's signature.

ii) The election petitioner is not clear about his verification at all, as he has stated that he verified the document based on his knowledge. But in the verified affidavit, he has stated that the averments contained in paragraph 1 to 20 and list of documents and the statement of addresses of the parties are true and correct to the best of his knowledge, belief and information. There is no cause of action shown by the election petitioner in the above election petition. No case at all is made out by the election petitioner in the entire paragraphs from 1 to 18 to have triable issues. When there is no triable issue, the election petition is liable to be rejected. No material facts are available in the election petition except certain bald and vague allegations. There is no allegation at all against the applicant/5th respondent, which shows that there is no cause of action at all.

3. The first respondent/election petitioner filed the counter affidavit wherein it is stated as follows:

The first part of the prayer in the election petition squarely falls under section 100(1) (d) (iv) of the Representation of People Act, 1951. Therefore, the applicant is not correct in saying that the prayer in the election petition is not maintainable. The election petitioner pleaded all the material facts about the violation of Rules (Conduct of election rules 1961) and as to how no reasonable opportunity was given to him. The material facts which are necessary to establish the allegation were given in the petition. Because of the non-compliance of the statutory rules, the election is void. Because of the illegal action by the official respondents by not providing sufficient opportunity and by not providing necessary documents in time, it had resulted the election petitioner in getting very low votes. The result of the election, so far as it concerned with the 5th respondent, has been materially affected. It is not correct to state that there is difference in the verification part between the petition and the document. Assuming but not admitting that there is defect in the verification, it is a simple defect and not fatal to the maintainability of the election petition. The election petitioner made specific averment in the cause of action paragraph about the violation of rules and that itself is sufficient to file election petition.

4. Mr. R. Neelakandan, learned counsel for the applicant submitted as follows:

The election petitioner is an independent candidate. He filed the election petition under Section 80 to 84 and 10(1) (d) (iv) of the Representation of the Peoples Act, 1951. The election petitioner has not alleged any corrupt practice against the returned candidate. The only allegation is non-compliance of provisions, that too, against the Returning officer and Chief Election Commissioner, who were arrayed as respondents 1 and 18. However, these respondents, on their applications, were deleted from the array of the respondents in the order made in O.A.No.369 and 370 of 2016 dated 11-09-2017 by this Court. When all the allegations are against the Returning Officer and Chief Election Commissioner and when those Officials are not now on record to respond those allegations, the election petition is liable to be rejected. The election petitioner has made only vague and bald allegations in all the paragraphs without there being any specific material details.

The prayer sought for in the election petition is to declare the election held on 16-05-2010 as null and void and not the election of the applicant/returned candidate, as required under section 84. The relief, if at all, could be sought only for declaration of all or any of the returned candidates election as void and not as prayed in this election petition. Therefore, the election petition filed under Section 84 was not in consonance with the relief to be asked under section 84. The requirement under Section 83(a) & (c) are not complied with in the absence of any allegation. No material facts are disclosed. There is contradiction in the verification paragraph. Only vague averments were made to sustain the election petition filed under Section 100(1) (d) (iv). The election petitioner obtained only 264 votes, whereas the applicant/returned candidate obtained 1,12,675 votes. There are no triable issues arising out of the facts and circumstances pleaded in the election petition.

5. In support of the above contentions, learned counsel relied on 2009 (10) SCC 541 (Ram Sukh V. Dinesh Aggarwal).

6. Mr. S. Anbalagan, learned counsel appearing for the first respondent/election petitioner submitted as follows:

The effect of the prayer in the election is only, indirectly, challenging the election of the returned candidate. If the prayer in the election is allowed, automatically the election of the returned candidate would go. The election petitioner alleged violation of election rules. Merely not pleading that the violation of Rules materially affected the election of the returned candidate, is not fatal to the election petition. In this connection 1995 Supp (1) SCC 422 (Jagjit Singh V. Dharam Pal Singh) and 1973 (2) SCC 45 (Durai Muthuswami V.N. Nachiappan) are relied on. The election petitioner's grievance is only against the Returning Officer and the Chief Election Commissioner. The deletion of those officials in this Election Petition, will not affect the maintainability of the same. In this connection, the order of this Court made in E.P.No.4/2006 dated 01-07-2011 is relied on. The Election Petition is maintainable even without making an allegation of corrupt practice.

7. Heard both sides and perused the material placed before this Court.

8. The first respondent herein as the election petitioner filed the election petition to declare the election held on 16-05-2016 in No.32, Chengalpattu constituency as null and void and direct the 18th respondent to conduct a fresh election by fixing a date by providing sufficient opportunity along with necessary documents in time. Election to No.32, Chengalpattu constituency was held on 16-05-2016, in which the election petitioner, the applicant herein/5th respondent in the election petition and others contested. The election petitioner is an independent candidate. The applicant herein is the candidate belonging to Dravida Munnetra Kazhagam Party. In the said election, the election petitioner secured 264 votes. The applicant herein, who is said to have secured 1,12,675 votes, became the successful candidate. The present election petition is filed before this Court only by contending that the rules of Conduct of Election Rules were violated and that reasonable opportunity was denied to the election petitioner to contest the election effectively.

9. From the perusal of the Election Petition, the allegation made by him with regard to violation of Election Rules, could be culled out as follows:

The list of voters was not given to him. Form-7A list of finalised candidates was not given to the election petitioner on the same day of allotment of symbol. The petitioner's request for permission to utilise a vehicle bearing Registration No.TN AW 6432 for his campaign was not considered. He made a complaint to the 1st and 18th respondents (who were later deleted from the array of parties) on 04-05-2016. Thereafter, the first respondent granted permission for using the said vehicle only on 06-05-2016. The candidate identity card and election identify card were not given at the earliest point of time. Without the list of candidates, the petitioner was stuck in not doing campaign. The petitioner made a complaint on 13-05-2016 in not informing him about the fixing of the symbol on EVS. Without his presence, the first respondent completed the action of fixing the symbol on EVS. The petitioner reliably understood that in most of the EVS his symbol was not fixed. Thus, Rule 49 (B) (4) (b) is violated. Because of the illegal action of the first respondent, the petitioner was not in a position to campaign effectively and thus, he was prevented from participating and contesting the election effectively.

10. With the above allegations, the election petitioner seeks for declaration of the election held in No. 32, Chengalpattu constituency as null and void and consequently, for a direction to conduct a fresh election.

11. From a careful perusal of the entire averments made in the election petition, it is seen that the grievance of the election petitioner is only against the Returning Officer and the Chief Election Commissioner who were originally arrayed as 1st and 8th respondents, respectively. As rightly pointed out by the learned counsel for the applicant, the election petitioner has not made any allegation against the applicant/ returned candidate. He has not alleged any corrupt practice against the returned candidate or those officials as well. Except by saying Vague averments that some Rules are violated, the election petitioner has not specifically stated as to which are the Rules violated, which has materially affected the election of the returned candidate namely, the applicant herein. Even otherwise, it is to be noted that in an application filled by the 1st and 18th respondents in this election petition, in O.A.No.369 and 370 of 2017, this court, after hearing all parties, passed an order on 11-09-2017 and allowed those applications filed to struck off the 1st and 18th respondents as the respondents in the election petition. Therefore, the fact remains that as of now those official respondents are not on record. It is seen that the said order passed by this court in striking off the 1st and 18th respondents has not been challenged by the election petitioner. Admittedly, the election petitioner is not having any grievance or complaint against the applicant/returned candidate. All his allegations as referred to supra. Are against the official respondents who are admittedly not the parties now before this court. No doubt, the election petitioner submitted that those official respondents can be summoned as witnesses to prove his case, even though they are deleted from the array of the respondents. But in my considered view,

when the allegations are made against those officials, they have to either counter such allegations or accept by way of their pleadings. Mere statement of those officials as witnesses may not be sufficient to decide the Election petition. Even otherwise, it is to be noted that those officials can be examined as witnesses only in respect of the pleadings as such made by the election petitioner in the election petition and not outside the pleadings. A careful perusal of the entire averments made in the election petition would indicate that, except making some bald and vague allegations, they are bereft of material particulars and details. When such being the position, Certainly, the petitioner is not entitled to improve his pleadings through the depositions of the witnesses, ever assuming that during the course of examination, the petitioner may put some questions which specific details. When those details are totally absent in the pleadings, certainly, the petitioner is not entitled to bring it in the form of a question to the witness as the first time, since neither such question put to the witness nor the answer given by such witness can from part of the pleadings or support the case of the election petitioner, in the absence of such specific details and material particulars made in the pleadings at the very beginning while filing the election petition. Therefore, in my considered view, the election petitioner is not entitled to contend that the deletion of the official respondents will not affect the election petition. Even otherwise, none of the averments made in the election petition discloses any material fact as to how such allegation, even found to be true, has materially affected the election of the returned candidate. At this juncture, it is useful to refer to section 84 of the Representation of the peoples Act, where it is stated as follows:

54. Relief that may be claimed by the petitioner:- A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

12. In this connection, the decision of the Honourable Supreme court reported in 2009 (10) SCC 541 relied on by the learned counsel for the applicant is relevant to be quoted. At paragraph No.21, the Apex court has observed as follows:

21. We may now advert to the facts at hand to examine whether the election petition suffered from the vice of non-disclosure of material facts as stipulated in section 83(1)(a) of the Act. As already stated the case of the election petitioner is confined to the alleged violation of Section 100 (1) (d) (iv). For the sake of ready reference, the said provision is extracted below:

“100. Grounds for declaring election to be void - (1) Subject to the provisions of sub-section (2) if the High Court is of opinion-

(d) that the result of the election, insofar as it concerns a returned candidate, has been materially affected-

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act.

the High Court shall declare the election of the returned candidate to be void.

13. Further, it is to be noted that the election petitioner has come out with bald and vague allegations without furnishing any specific and material details. In paragraph No.4, he simply stated that the rules were not complied with and the principles of natural justice was violated. What is the Rule which was not complied with and in what manner the Principles of natural justice was violated, have not been specifically averred. In paragraph No.5 onwards, he only complained with regard to his inability to canvass for the election due to the non-furnishing of voters list, identity card in time and not permitting to utilize the vehicle in time the petitioner has not however, stated as to how such delay, even assuming to be true, has materially affected the election of the returned candidate. In paragraph No.12, he simply stated that in most of the EVS, the symbol was not fixed and therefore, Rule 49 (4) (d) was violated. He has not given the material details as to which are the EVS where his symbol was missing. Therefore, this again is vague allegation. Certainly, these vague allegations cannot be spoken to by the witnesses specifically, since it is settled law that no amount of evidence could be relied on howsoever specific it. May be, in the absence of specific pleading to that effect. Statement of a witness cannot improve the pleading. Considering the above stated facts and circumstances. I find force in the submissions made by the learned counsel for the returned candidate that there are no tribal issues arising out of the averments made in the Election Petition.

14. Learned counsel for the respondent relied on 1995 supp (I) SCC 422 (Jagjit Singh V. Dharam Pal Singh) to counted that in the absence of averment that result of the election was materially affected due to the grounds raised in the election petition, cannot be fatal. Perusal of the said decision would show that the allegation of improper rejection or acceptance of votes was made in the election petition therein and that the election petitioner therein lost the election by margin of 80 votes only. Therefore, the "Circumstances", as pleaded, play a very important role even to draw conclusion. On the question as to whether the result of the election has been materially affected, even in the absence of any such averment to that effect. In this case, admittedly, the petitioner has secured only 264 votes, whereas the returned candidate secured 1,12,675 votes. Moreover, the petitioner has not pleaded as to how the events alleged in the election petition. Has materially affected the result of the election. First of all, the events alleged must be specific with material details so as to draw an inference that such of those events might have materially affected the election of the returned candidate. Therefore, I find that the above decision of the Apex court is factually distinguishable and thus, the same is not applicable to the present case.

15. 1973 (2) SCC 45 (Durai Muthuswami V.N. Nachiappan), is again relied on by the learned counsel for the respondent for the very same proposition. A careful perusal of the said decision would show that the election petitioner therein has specifically made an averment that improper acceptance of the first respondent's nomination therein made the election void since the 1st respondent therein was suffering from disqualification which will fall under Section 9-A. Therefore, it is evident that the allegation and complaint of the election petitioner therein were not only specific but also against the returned candidate, more particularly, with regard to his nomination. Therefore, the Apex Court found that in such circumstance, it was not necessary for the petitioner to further allege that the result of the election, insofar as it concerns the returned candidate, has been materially affected by the improper acceptance by the 1st respondent's nomination. The facts and circumstances of the present case are totally different. As already stated supra, the 1st respondent herein/election petitioner is not having any complaint or grievance against the returned candidate at all. If that is the admitted case, it is for petitioner to specifically allege as to how the result of the returned candidate is materially affected based on the allegation made in the election petition that too, being bald and vague. In absence of such averments, I do not think that the above decision is also helping the respondent in any manner.

16. 1999(2) SCC 217 (H.D. Ravanna V. G. Puttaswamy Gowda), is relied on the condition that the defect in verification of the election petition or the affidavit accompanying the election petition or the affidavit accompanying the election petition is curable and not fatal. There is no quarrel about the above said proposition. But the issue involved in this case, based on the facts and circumstances as discussed supra is totally different. An unreported decision of this court made in the Election petition No.4 of 2006 dated 11-7-2011 is relied on by the respondent to contend that the election petition is maintainable even in the absence of a ground of corrupt practice. I do not think that the above decision has any relevance to the present facts and circumstances, as discussed supra.

17. Considering the above stated facts and circumstances, this Court is of the view that the applicant herein is entitled to succeed and the Election Petition is liable to be rejected as none of the grounds/allegations raised in the petition projects a triable issue, warranting this court to conduct the trial. Accordingly, this application is allowed and consequently, the Election Petition is rejected. The connected application is closed.

WITNESS, THE HON'BLE SHRIMATI, VIJAYA KAMLESH TAHILRAMANI,
CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS
THE 26TH DAY OF SEPTEMBER 2018.

Sd/- (In-charge)

*Assistant Registrar,
Original Side - I.*

"CERTIFIED TO BE TRUE COPY"
DATED THIS THE 2 DAY OF JANUARY 2019

Court Officer (OS)

From 25th Day of September 2008 the Registry is issuing certified copies of
the Orders/Judgments/Decrees in this format.

(By order)

MALLAY MALLICK,
*Secretary,
Election Commission of India.*

Secretariat,
Chennai-600 009.

SATYABRATA SAHOO,
*Chief Electoral Officer and
Secretary to Government.*